

1 A MEMORIAL

2 REQUESTING THE ATTORNEY GENERAL TO ANALYZE THE GENERAL
3 COMPLIANCE WITH THE NOTIFICATION REQUIREMENTS OF THE DATA
4 BREACH NOTIFICATION ACT STEMMING FROM THE 2017 EQUIFAX DATA
5 BREACH AND THE METHODS USED BY SOME STATES TO ELIMINATE
6 CHARGES TO INDIVIDUAL CONSUMERS SEEKING TO PLACE A FREEZE, OR
7 LOCK, ON THEIR CREDIT REPORTS; REQUESTING A REPORT.

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9 WHEREAS, the Data Breach Notification Act was enacted in
10 2017 and became effective on June 16, 2017; and

11 WHEREAS, Equifax is one of three nationwide credit
12 report service providers that collects the personal
13 information of many New Mexico residents; and

14 WHEREAS, on September 7, 2017, Equifax reported to the
15 federal trade commission that it had suffered a breach of
16 consumer data; and

17 WHEREAS, the federal trade commission has reported that
18 personal information regarding approximately one hundred
19 forty-three million American consumers was exposed in the
20 Equifax data breach; and

21 WHEREAS, the Equifax data breach included the credit
22 card numbers of approximately two hundred nine thousand
23 people and personal identifying information for approximately
24 one hundred eighty-two thousand people; and

25 WHEREAS, the Data Breach Notification Act places certain

1 contractual requirements for data security on the owners or
2 licensees of personal identifying information and
3 notification requirements on both the service providers and
4 on the owners and licensees of personal identifying
5 information; and

6 WHEREAS, the website Equifax initially provided for
7 consumers to check if they had been affected by the breach
8 was reported to require consumers to sign up for a credit
9 monitoring service, and while the website does not currently
10 have that requirement, many consumers may have been
11 disinclined to check the website because of the perception
12 that they would have to sign up for the service and pay for
13 it; and

14 WHEREAS, the federal trade commission encourages
15 consumers to consider putting a lock, also referred to as a
16 freeze, on their credit reports as a safety measure; and

17 WHEREAS, consumers who decide to put a lock on their
18 credit reports must contact each credit reporting service
19 separately and pay each service's fee; and

20 WHEREAS, after Equifax announced its data breach, it
21 waived its credit report lock fee for a period of time, but
22 the other credit reporting agencies did not; and

23 WHEREAS, New Mexico has been listed as one of the five
24 most expensive states for consumers to lock their credit
25 reports, along with Washington, Texas, Pennsylvania and

1 South Dakota; and

2 WHEREAS, consumers can lock their credit reports for
3 free in seven states: Colorado, Indiana, Maine, New Jersey,
4 New York, North Carolina and South Carolina;

5 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE
6 STATE OF NEW MEXICO that the attorney general be requested to
7 review and evaluate:

8 A. the compliance in New Mexico of the owners and
9 licensees of personal identifying information and the service
10 providers that retain that information under contract with
11 the Data Breach Notification Act;

12 B. the effectiveness of the current requirements
13 of the Data Breach Notification Act in protecting personal
14 identifying information and in assisting consumers to protect
15 their credit after a data breach incident; and

16 C. the methods that various states have used to
17 ensure that consumers may lock their credit reports for free
18 and the costs and benefits of those methods; and

19 BE IT FURTHER RESOLVED that the attorney general be
20 requested to create a report with the conclusions of the
21 review and evaluation and proposals to strengthen consumer
22 data security and breach notification; and

23 BE IT FURTHER RESOLVED that the attorney general be
24 requested to present the report to the appropriate
25 legislative interim committee prior to that committee's final

1 meeting in 2018; and

2 BE IT FURTHER RESOLVED that a copy of this memorial be
3 transmitted to the office of the attorney general. _____

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